

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case Nos. 17-20657 and 18-20269
Hon. Matthew F. Leitman

v.

D1, TAVARAS WARREN,

Defendant.

/

ORDER ON PENDING MOTIONS

I

On March 27, 2019, Defendant Tavaras Warren appeared before the Court and entered guilty pleas in two separate criminal cases.¹ In case number 17-cr-20657, Warren pleaded guilty to committing a Hobbs Act Robbery in violation of 18 U.S.C. § 1951 and to discharging a firearm during and in relation to a crime of violence in violation of 18 U.S.C. § 924(c). (*See* Plea Agreement, E.D. Mich. Case No. 17-cr-20657, ECF No. 91.) The Hobbs Act Robbery was the crime of violence underlying the Section 924(c) offense. (*See id.*) In case number 18-cr-20269,

¹ Warren entered into a single plea agreement that covered both cases. Thus, the plea agreement covering case number 18-cr-20269 can be found on the docket for case number 17-cr-20657.

Warren pleaded guilty to possession of a firearm in furtherance of a drug trafficking crime in violation of 18 U.S.C. § 924(c). (*See id.*)

On June 27, 2019, the Court sentenced Warren in both cases. In case number 17-cr-20657, the Court sentenced Warren to 20 months in prison on the Hobbs Act Robbery conviction and 120 months on the firearm discharge conviction, to be served consecutively to the 20-month sentence for the robbery conviction. (*See* Judgment, E.D. Mich. Case No. 17-cr-20657, ECF No. 98.) In case number 18-cr-20269, the Court sentenced Warren to 60 months in prison, to be served consecutively to the sentence imposed in case number 17-cr-20657. (*See* Judgment, E.D. Mich. Case No. 18-cr-20269, ECF No. 25.) Warren did not file a direct appeal of his convictions or sentences in either case.

II

On December 17, 2019, Warren filed identical motions in both cases to vacate his sentences under 28 U.S.C. § 2255 (the “Motions to Vacate”). (*See* ECF No. 102 in E.D. Mich. Case No. 17-cr-20657; ECF No. 32 in E.D. Mich. Case No. 18-cr-20269.) The Court denied the Motions to Vacate in written orders dated March 4, 2020, and it entered judgment against Warren in both cases on that date. (*See* Orders and Judgments, ECF Nos. 110 and 111 in E.D. Mich. Case No. 17-cr-20657; ECF Nos. 39, 40 in E.D. Mich. Case No. 18-cr-20269.)

Unbeknownst to the Court, on March 3, 2020, Warren placed in the prison mail system motions to withdraw the Motions to Vacate (the “Motions to Withdraw”). (*See* Mot., ECF No. 112 in E.D. Mich. Case No. 17-cr-20657; ECF No. 41 in E.D. Mich. Case No. 18-cr-20269.) Under the “prison mailbox rule” those motions were deemed filed on March 3, 2020. *Brand v. Motley*, 526 F.3d 921, 925 (6th Cir. 2008). Thus, Warren had moved to withdraw his Motions to Vacate before the Court issued its orders denying those motions.

Had the Court known that Warren wanted to withdraw the Motions to Vacate, it would have permitted him to do so and would not have ruled on the motions. Accordingly, the Court deems it appropriate to **GRANT** the Motions to Withdraw and **VACATE** its rulings denying the Motions to Vacate and the judgments arising out of those denials. Finally, because the Court is vacating its orders denying Warren’s Motion to Vacate, the Court will **TERMINATE AS MOOT** Warren’s other pending motions seeking to amend and/or set aside the Court’s orders and judgments related to the Motions to Vacate. (*See* Mots., ECF No. 113, 114, and 115 in E.D. Mich. Case No. 17-cr-20657; ECF Nos. 42, 43, and 44 in E.D. Mich. Case No. 18-cr-20269.)

Nothing in this order, or any other order that the Court has previously entered, shall be deemed an adjudication of Warren’s Motions to Vacate.

III

On June 18, 2020, in case number 17-cr-20657, Warren filed a new motion to vacate his sentence pursuant to 28 U.S.C. § 2255 (the “New Motion to Vacate”).² (*See* Mot., ECF No. 116 in E.D. Mich. Case No. 17-cr-20657.) The Government shall respond to that motion by no later than **September 28, 2020**.

IV

For all of the reasons stated above, **IT IS HEREBY ORDERED** as follows:

- Warren’s Motions to Withdraw (ECF No. 112 in E.D. Mich. Case No. 17-cr-20657; ECF No. 41 in E.D. Mich. Case No. 18-cr-20269) are **GRANTED**;
- The Court’s March 4, 2020, orders denying Warren’s Motions to Vacate (ECF No. 110 in E.D. Mich. Case No. 17-cr-20657; ECF No. 39 in E.D. Mich. Case No. 18-cr-20269) are **VACATED**;
- The Court’s March 4, 2020, judgments (ECF No. 111 in E.D. Mich. Case No. 17-cr-20657; ECF No. 40 in E.D. Mich. Case No. 18-cr-20269) are **VACATED**;

² As of the date of this order, Warren has not filed a new motion to vacate his sentence in case number 18-cr-20269.

- Warren's Motions to Vacate (ECF No. 102 in E.D. Mich. Case No. 17-cr-20657; ECF No. 32 in E.D. Mich. Case No. 18-cr-20269) are **TERMINATED WITHOUT PREJUDICE**;
- Warren's motions to alter, amend, and/or set aside the Court's March 4, 2020, orders and judgments (ECF Nos. 113, 114, and 115 in E.D. Mich. Case No. 17-cr-20657; ECF Nos. 42, 43, and 44 in E.D. Mich. Case No. 18-cr-20269) are **TERMINATED AS MOOT**; and
- The Government shall respond to Warren's New Motion to Vacate (ECF No. 116 in E.D. Mich. Case No. 17-cr-20657) by no later than **September 28, 2020**.

IT IS SO ORDERED.

Dated: July 21, 2020

s/Matthew F. Leitman
MATTHEW F. LEITMAN
UNITED STATES DISTRICT JUDGE

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on July 21, 2020, by electronic means and/or ordinary mail.

s/Holly A. Monda
Case Manager
(810) 341-9764